



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
1250 Maryland Avenue, S.W.
Washington, D.C. 20024

JUN 24 2015

Mr. John J. Specia, Jr.
Commissioner
Texas Department of Family and Protective Services
P.O. Box 149030, Room E654
Austin, Texas 78714-9030

Dear Mr. Specia:

The Children's Bureau (CB), Administration for Children and Families (ACF), conducted a secondary review of the Texas Department of Family and Protective Services (DFPS) title IV-E foster care program during the week of February 9, 2015. The review protocol was implemented in accordance with the federal provisions at part 45, section §1356.71 of the Code of Federal Regulations (45 CFR §1356.71). This letter serves to correct the dollar error rate and the amount of the disallowance stated in the letter and report of final findings dated May 19, 2015.

I am pleased to inform you the Children's Bureau has determined that the DFPS title IV-E foster care program is in substantial compliance with federal eligibility requirements for the period under review (PUR). For a secondary review, if a title IV-E agency does not exceed the error threshold of more than 10 percent for either the case error rate or the dollar error rate, the agency is in substantial compliance. The review findings of 4.67 percent case error rate and 3.55 percent dollar error rate do not exceed the threshold for substantial compliance in a secondary review. This reflects a revision of the dollar error rate provided in the previous letter. The revised dollar error rate considers only those ineligible payments for activities performed during the PUR in reviewed cases. The next primary review will be held within three years.

The dollar error rate is determined by dividing the maintenance and administrative dollars associated with the ineligible payments during the PUR by the total dollar value claimed during the PUR for the maintenance payments and administrative costs associated with all cases in the review sample. A standardized methodology is applied to financial data reported by Texas to get an average administrative cost claim per child per month for a 12-month period encompassing the PUR. A 12-month period rather than the 6-month PUR is used for calculating this average since the result must be adjusted for application to any periods of ineligibility in the federal fiscal years (FFYs) before the current FFY using the Office of Management and Budget (OMB) deflator factor. In addition, since the average administrative cost calculation looks at current quarter and prior quarter adjustment claims, use of a 12-month period (4 quarters) assures that any seasonal differences in the scope of the prior quarter adjustments will not have a disproportional impact on the resulting average.

As discussed in our electronic communication with Beth Cody and Diane Nunez, the ACF Regional Grants Management Unit (RGMU) noted that the maintenance and administrative disallowance amounts for sample TX 76 were overstated by \$1046.46 and \$644.00 respectively. The revised disallowance for sample TX 76 maintenance is \$5417.00 (not \$6463.46) and administrative is \$5803.00 (not \$6447.00).

The ACF RGMU also determined that the maintenance amount for sample TX 128 was overstated by \$494.48. The revised disallowance amount for sample TX 128 is \$1912.68 (not \$2407.16).

Additionally, in sample TX OS7 the report of final findings states the child was ineligible during the foster care episode from 06/01/2007 to current. The correct date of the child's ineligibility during the foster care episode is from 06/01/2010 to current. There was no change in the disallowance amount.

Disallowance Notice

This letter revises our formal notice of disallowance to \$170,643.80 in foster care maintenance payments and related administrative costs for title IV-E funds claimed improperly for the error cases and non-error cases with ineligible payments.

Since the amount of disallowed funds was previously included in federal payments to the state, you must repay these funds by including prior periods of foster care decreasing adjustments on appropriate lines in Part 1 and 2 of the Form CB-496. In the comment box in Part 2 of the form you must include a note that identifies the adjusted amount as being associated with a "IV-E Review" and include the date of this disallowance notice or the specific PUR covered by the review. Form CB-496 must be submitted within 30 days of the date of this notice to avoid an assessment of interest. The state must cease claiming title IV-E payments associated with the improperly paid cases until eligibility is substantiated for them.

Appeal Notice

This is the final decision of the Administration for Children and Families. It shall be the final decision of the Department of Health and Human Services unless you submit a written notice of appeal to the Departmental Appeals Board (DAB), in accordance with 45 CFR Part 16. Your written notice of appeal must be sent within 30 calendar days of receiving this decision from the Children's Bureau about the title IV-E review finding and payment disallowance. Your notice of appeal must note you intend to appeal, give the amount in dispute, and briefly say why you think the title IV-E review decision is incorrect. You must attach a copy of this decision to your notice of appeal. The DAB will notify you of further procedures.

A notice of appeal may be submitted to the DAB by mail, by facsimile (fax) if under 10 pages, or electronically using the DAB's electronic filing system (DAB E-File). Submissions are considered made on the date they are postmarked, sent by certified or registered mail, deposited with a commercial mail delivery service, faxed (where permitted), or successfully submitted via DAB E-File.

If you mail your notice of appeal, it should be addressed to:

U.S. Department of Health and Human Services
Departmental Appeals Board, MS 6127
Appellate Division
330 Independence Ave., SW
Cohen Building, Room G-644
Washington, D.C. 20201

If you fax your notice of appeal (permitted only if the appeal notice is under 10 pages), you should use the Appellate Division's fax number, (202) 565-0238.

If you use DAB E-File to submit your notice of appeal, you or your representative must first become a registered user by (1) clicking "Register" at the bottom of the DAB E-File homepage, <https://dab.efile.hhs.gov/>; (2) entering requested information on the "Register New Account" form; and (3) clicking the "Register Account" button. Once registered, you or your representative should (1) login to DAB E-File using the e-mail address and password provided during registration; (2) click "File New Appeal" on the menu; (3) click the "Appellate" button; and (4) provide and upload the requested information and documents on the "File New Appeal-Appellate Division" form. Detailed instructions can be found on the DAB E-File homepage.

When you submit your appeal to the DAB, you must send a copy to Janis Brown, the Child Welfare Regional Program Manager in Region 6 of the Children's Bureau.

Interest and Penalties

If you appeal, you may repay the amount at issue pending a decision by the DAB, or you may retain the funds pending that decision. If you repay the funds, an adjustment to return the disallowed funds to avoid an interest assessment must be submitted on the Form CB-496, as described above for payment adjustments. If you retain the funds and the DAB sustains all or part of the disallowance, interest and penalties will be charged on improperly paid funds in accordance with 45 CFR Part 30.18. Interest will accrue on the funds from the date of this disallowance letter to the date of repayment. The current interest rate is 9.875 percent.

I thank you and your staff for the collaborative efforts that were made to prepare for and participate with us in this review. My staff looks forward to working with your agency to continue to improve state implementation of the federal requirements and to improve services to children and families.

Please contact Cory McCarrell at (214) 767-4542 if you have any questions about this review. Questions concerning the disallowance should be directed to Janis Brown, Regional Program Manager at (214) 767-8466 or Diane Winfrey, Grants Management Specialist at (214) 767-9380.

Sincerely,

JooYeun Chang
Associate Commissioner
Children's Bureau

Enclosure

cc: Jennifer Sims, Deputy Commissioner; DFPS; Austin, TX
Lisa Black, Assistant Commissioner for CPS; DFPS; Austin, TX
Dan Capouch, CPS Director of Services; DFPS; Austin, TX
Elizabeth Kromrei, CPS Director of Projects; DFPS; Austin, TX
Max Villarreal, CPS State/Federal Funds Manager; DFPS; Austin, TX
Gail Collins, Director; Implementation Division, CB, ACF; Washington, DC
Jennifer Butler-Hembree, Program Specialist; Implementation Division, CB, ACF;
Washington, DC
Paul Kirisitz, Director of Regional Programs; CB, ACF; Washington, DC
Janis Brown, Child Welfare Program Manager; CB Region VI, ACF; Dallas, TX
Cory McCarrell, Children and Families Program Specialist; CB Region VI, ACF; Dallas,
TX
Janice Caldwell, Team Leader; Grants Management Unit, Region VI, ACF; Dallas, TX